IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF NEBRASKA

HARRY R. FOWLER,)	8:09CV65
)	
Plaintiff,)	
)	
V.)	MEMORANDUM
)	AND ORDER
WERNER ENTERPRISES,)	
)	
Defendant.)	

This matter is before the court on Jennifer R. Deitloff's Motion to Withdraw as counsel for Defendant. (Filing No. <u>59</u>.) The record shows that the Defendant continues to be represented by other counsel. (*See* Docket Sheet.)

Also pending is Plaintiff's Motion to Appeal In Forma Pauperis ("IFP"). (Filing No. <u>60</u>.) On November 10, 2009, the court dismissed Plaintiff's claims with prejudice and entered judgment against Plaintiff. (Filing Nos. <u>54</u> and <u>55</u>.) On December 10, 2009, Plaintiff filed a timely Notice of Appeal of the court's Judgment. (Filing No. <u>56</u>.) Plaintiff is a non-prisoner and has not previously been granted leave to proceed in forma pauperis ("IFP") in this matter.

As set forth in <u>Federal Rule of Appellate Procedure 24(a)(1)</u>:

Except as stated in Rule 24(a)(3), a party to a district-court action who desires to appeal in forma pauperis must file a motion in the district court. The party must attach an affidavit that:

- (A) shows in the detail prescribed by Form 4 of the Appendix of Forms the party's inability to pay or to give security for fees and costs;
- (B) claims an entitlement to redress; and

(C) states the issues that the party intends to present on appeal.

<u>Fed. R. App. P. 24(a)(1)</u>. The court has carefully reviewed the record. Plaintiff has filed a Motion for Leave to Appeal IFP and an affidavit that claims an entitlement to redress for the relief Plaintiff requested in his Complaint. (Filing No. <u>60</u>.) Therefore, Plaintiff's Motion for Leave to Appeal IFP is granted.

IT IS THEREFORE ORDERED that:

- 1. Jennifer R. Deitloff's Motion to Withdraw (filing no. <u>59</u>) is granted. The Clerk of the court is directed to terminate Deitloff's appearance as counsel for Defendant and discontinue sending electronic notices regarding this matter to Deitloff.
 - 2. Plaintiff's Motion for Leave to Appeal IFP (filing no. <u>60</u>) is granted.
- 3. The Clerk of the court shall process the appeal and shall provide the Court of Appeals with a copy of this Memorandum and Order.

January 14, 2010.

BY THE COURT:

Richard G. Kopf

United States District Judge

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